

UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS

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IN RE: PHARMACEUTICAL	)	MDL No. 1456
INDUSTRY AVERAGE WHOLESAL	)	Master Docket 08-cv-12257
PRICE LITIGATION	)	
	)	
	)	Subcategory 06-11337
THIS DOCUMENT RELATES TO:	)	Civil Action No. 08-cv-10852
	)	
<i>United States of America Ex Rel.</i>	)	
<i>Ven-A-Care of the Florida Keys, Inc.,</i>	)	Judge Patti B. Saris
<i>a Florida Corporation, by and through</i>	)	
<i>its principal officers and directors,</i>	)	
<i>ZACHARY T. BENTLEY and T. MARK JONES,</i>	)	
<i>vs. Actavis Mid Atlantic LLC,</i>	)	
<i>et al.</i>	)	

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Status Report April 1, 2009

Pursuant to the Court's July 17, 2004 Procedural Order, the undersigned counsel for the Plaintiff hereby submits the following status report to the Court listing the status of all motions to date.

Respectfully submitted,

Dated: 4/1/09

By: /s/ Susan Schneider Thomas

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**Attorneys for Ven-A-Care of the Florida Keys,  
Inc.**

**MDL 1456 Status Report**  
**USA ex rel. Ven-A-Care v. Actavis, et al.**

**Case No. 08-cv-10852**

**Pending Motions**

On October 30, 2008, Defendants filed a Joint Motion to Dismiss Relator's claims. Additionally, Alpharma, Barr, Ivax and Mylan filed individual motions to dismiss.

On February 24, 2009, the Court heard oral argument on the Motions to Dismiss Relator's Claims. The issues were taken under advisement by the Court. Following the Court's Order at the hearing for the parties to commence limited discovery on "original source" issues under the False Claims Act, on March 19, 2009, the parties filed a Joint Motion for Order to Adopt Proposed Limited Case Management Order.

On March 24, 2009, the Court entered a Case Management Order as follows:

1. That the case shall be deemed to be part of the MDL 1456;
2. That by March 23, 2009, each identified Defendant Group shall identify one counsel for purpose of service of discovery;
3. That by March 27, 2009, Plaintiff shall produce to Defendants copies of all deposition transcripts, exhibits and documents produced in the AWP cases and disclosure statements provided to the United States pursuant to 31 U.S.C. § 3730(b)(2) and 31 U.S.C. § 3730(e)(4)(B); and all other documents that Plaintiff turned over to the government or upon which Plaintiff relies to establish its jurisdiction shall be produced a rolling basis to be completed by June 5, 2009;
4. That by June 15, 2009, Defendants shall serve notice for a Rule 30(b)(6) deposition concerning subject matter jurisdiction pursuant to 31 U.S.C. § 3730(e)(4)(B) and Plaintiff shall designate a corporate representative by June 30, 2009;
5. That all discovery on original source issues shall be completed by July 30, 2009; and
6. That if the Court rules that any part of this action is barred by a prior public disclosure, the Court shall schedule briefing and a hearing to determine whether there is subject matter jurisdiction under the original source provision of 31 U.S.C. § 3730(e)(4)(A) and (B).

On March 30, 2009, Defendant Mylan filed a Motion for Leave to file Notice of Supplemental Authority.

**CERTIFICATE OF SERVICE**

I hereby certify that I, Carol Brotstein, paralegal with Berger & Montague caused a true and correct copy of the foregoing Status Report to be served on all counsel of record electronically on April 1, 2009, pursuant to Paragraph 11 of Case Management Order No. 2, by sending a copy to LEXIS File & Serve electronic filing service. I hereby also certify that a copy hereof was furnished via U.S. Mail this 1<sup>st</sup> day of April, 2009 to the following:

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Respectfully submitted,

Dated: 4/1/09

By: /s/ Carol Brotstein

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